



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 10 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Mary Beth Deemer
Jones Day
500 Grant Street
Suite 3100
Pittsburgh, PA 15219-2502

SUBJ: Final Administrative Order on Consent Pursuant to Section 3013(a) of RCRA
In the Matter of White Springs Agricultural Chemicals, Inc d/b/a
PCS Phosphate Inc.- White Springs
Docket Number: RCRA-04-2008-4014
EPA ID Nos.: FLD 098 372 360- Suwannee River Complex
FLD 000 622 548- Swift Creek Complex

Dear Ms. Deemer:

Please find the enclosed Administrative Order on Consent ("Order"), issued pursuant to Section 3013(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a).

Per discussions held between EPA and PCS representatives, an executed copy of the Order is enclosed and became effective on September 9, 2008.

If you have any questions regarding this matter, please contact Mita Ghosh at (404) 562-9568.

Sincerely,

A handwritten signature in cursive script, reading "Caroline Y.F. Robinson".

Caroline Y.F. Robinson, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

Enclosure

cc: Tim Bahr- FDEP
John Coates- FDEP
Ashwin Patel- FDEP

61 Forsyth St, S.W.
Atlanta, Georgia 30303

IN THE MATTER OF:

ADMINISTRATIVE ORDER ON CONSENT

White Springs Agricultural Chemicals, Inc.
d/b/a PCS Phosphate- White Springs
PCS Phosphate, Inc
Suwannee River Complex
State Road 137
White Springs, Florida 32096

Docket No: RCRA-04-2008-4014

EPA ID No. FLD 098 372 360

Proceeding under Section 3013(a) of the
Resource Conservation and Recovery Act,
as amended, 42 U.S.C. § 6934(a)

White Springs Agricultural Chemicals, Inc.
d/b/a PCS Phosphate- White Spring
Swift Creek Complex
US Highway 41 N
White Springs, Florida 32096

EPA ID No. FLD 000 622 548

RESPONDENT

RCRA SECTION 3013(a) ADMINISTRATIVE ORDER ON CONSENT

TABLE OF CONTENTS

I.	JURISDICTION	3
II.	PARTIES BOUND	3
III.	STATEMENT OF PURPOSE	4
IV.	FINDINGS OF FACT.....	4
V.	DETERMINATIONS AND CONCLUSIONS OF LAW	7
VI.	ORDER.....	9
VII.	ADDITIONAL WORK	11
VIII.	MINIMUM QUALIFICATIONS FOR PERSONNEL	11
IX.	SUBMISSIONS/EPA REVIEW	12
X.	QUALITY ASSURANCE/QUALITY CONTROL	14
XI.	PROJECT COORDINATOR.....	15
XII.	SAMPLING AND DATA/DOCUMENT AVAILABILITY	16
XIII.	ON-SITE AND OFF-SITE ACCESS	17
XIV.	RECORD PRESERVATION	17
XV.	INFORMATION SUBMITTED TO EPA.....	18
XVI.	DELAY IN PERFORMANCE/STIPULATED PENALTIES.....	18
XVII.	DISPUTE RESOLUTION	19
XVIII.	FORCE MAJEURE	20
XIX.	RESERVATION OF RIGHTS	21
XX.	OTHER APPLICABLE LAWS.....	21
XXI.	OTHER CLAIMS	22
XXII.	SUBSEQUENT MODIFICATION OF ORDER.....	22
XXIII.	SEVERABILITY	23
XXIV.	TERMINATION AND SATISFACTION.....	23
XXV.	SURVIVABILITY/PERMIT INTEGRATION	23
XXVI.	ATTORNEYS' FEES AND COSTS.....	23
XXVII.	EFFECTIVE DATE	24
	CERTIFICATE OF SERVICE	25

RCRA SECTION 3013(a) ADMINISTRATIVE ORDER ON CONSENT

I. JURISDICTION

1. This Administrative Order on Consent ("Consent Order") is issued pursuant to the authority vested in the Administrator of the Environmental Protection Agency ("EPA" or "Agency") by Section 3013(a) of the Resource Conservation and Recovery Act, ("RCRA" or "the Act"), as amended, 42 U.S.C. § 6934(a). The authority to enter into this Consent Order has been duly delegated to the Director, RCRA Division, EPA Region 4.

2. This Consent Order is issued to White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate, White Springs ("PCS" or "Respondent"), a Delaware corporation doing business in the State of Florida. Respondent consents to and agrees not to contest EPA's authority to issue this Consent Order and to enforce its terms. Further, Respondent will not contest EPA's authority to: compel compliance with this Consent Order in any subsequent enforcement proceedings; require Respondent's full or interim compliance with the terms of this Consent Order; or impose sanctions for non-compliance with the terms of this Consent Order; provided, however, that Respondent retains any and all rights it may have to dispute the merits of any such claims.

3. This Consent Order is based upon the administrative record compiled by EPA and incorporated herein by reference. The record is available for review by the Respondent and the public at EPA's Regional Office at 61 Forsyth St, S.W. Atlanta, Georgia 30303.

4. On February 12, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA granted Florida the authorization to operate a hazardous waste program in lieu of the federal program [50 FR 3908]. Although, EPA has granted Florida authority to enforce its own hazardous waste program, EPA retains its authority under Section 3013(a) of the Act.

II. PARTIES BOUND

5. The provisions of this Consent Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, contractors, successors, and assigns.

6. No change in ownership, corporate, or partnership status relating to the Facilities described in this Consent Order will in any way alter the status or responsibility of Respondent under this Consent Order. Any conveyance by Respondent of title, easement, or other interest in the Facilities described herein, or a portion of such interest, shall not affect Respondent's obligations under this Consent Order. Respondent shall be responsible and liable for any failure to carry out all activities required of Respondent by this Consent Order, irrespective of its use of employees, agents, contractors, or consultants to perform any such tasks.

7. Respondent shall provide a copy of this Consent Order to all contractors, subcontractors, laboratories, and consultants retained to conduct or monitor any portion of the work performed

pursuant to this Consent Order within seven (7) calendar days of the effective date of this Consent Order, or on the date of such retention, and Respondent shall condition all such contracts on compliance with the terms of this Consent Order.

8. Any documents transferring ownership and/or operations of the Facilities described herein from Respondent to a successor-in-interest shall include written notice of this Consent Order. In addition, Respondent shall, no less than thirty (30) days prior to transfer of ownership or operation of one or both Facilities, provide written notice of this Consent Order to its successor-in-interest, and written notice of said transfer of ownership and/or operation to EPA.

III.STATEMENT OF PURPOSE

9. In entering into this Consent Order, the mutual objectives of EPA and Respondent are the protection of human health and the environment through Respondent's implementation of sampling, analysis, monitoring and reporting at the Facilities that are the subject matter of this Consent Order.

IV.FINDINGS OF FACT

10. The facilities that are the subject of the Consent Order are Respondent's Suwannee River Complex and Swift Creek Complex. The facilities collectively will be referred to herein as the "Facilities." For purposes of this Consent Order those areas currently utilized by PCS for mining operations shall not be included.

PCS Suwannee River Complex:

11. Respondent's Suwannee River Complex's operations include the production of sulfuric acid, phosphoric acid, monoammonium phosphate ("MAP"), diammonium phosphate ("DAP"), green superphosphoric acid ("SPA/LoMag"), defluorinated phosphoric acid ("DFP"), monocalcium phosphate ("MonoCal"), and di-calcium phosphate ("DiCal"). Additional operations include, but are not limited to, two Phosphogypsum Stack Systems as defined in Rule 62-673.200(15), F.A.C., electric cogeneration, raw material storage and handling, wastewater storage and handling, and product handling and shipping.

12. To produce sulfuric acid, the Suwannee River Complex burns molten sulfur to produce sulfur dioxide. The process to produce sulfuric acid is a double absorption process which uses a catalyst and absorption towers. The resultant sulfuric acid is stored as 98% acid.

13. Phosphoric acid is produced by digesting phosphate rock with sulfuric acid. The reaction produces phosphogypsum crystals and dilute phosphoric acid. The reaction mixture is filtered to separate phosphogypsum crystals from the dilute phosphoric acid. The dilute phosphoric acid separated from the reaction mixture is concentrated by evaporation. The phosphogypsum crystals separated from the reaction mixture are slurried with water and pumped to one of two phosphogypsum storage stacks – the Dorr Oliver Gypstack or the CTC Gypstack.

14. The CTC Gypstack is located in the northwest corner of the Suwannee River Complex, immediately west and northwest of the chemical plant. The phosphogypsum stack is completely

surrounded by perimeter process water cooling pond system that includes above- and below-ground components. The CTC cooling pond on the north, west, and south sides of the phosphogypsum stack has an operational water level that is above the adjacent natural ground surface elevation, while that portion of the pond located east of the stack and immediately west of the chemical plant is a below-ground pond. A spillway near the southwest corner of the phosphogypsum stack controls the water level in the above-ground pond. The operating water level in the below-ground pond is maintained below the surrounding natural ground surface.

15. The CTC Gypstack system was placed in operation in 1975 and currently encompasses a total base area of approximately 475 acres, of which 375 acres is occupied by the phosphogypsum stack. The highest top elevations of the existing phosphogypsum stack are between 244 and 268 feet.

16. The Dorr-Oliver Gypstack system was the original phosphogypsum facility for the Suwannee River Complex and currently encompasses a total area of approximately 370 acres, including approximately 95 acres for the above-ground cooling pond, 200 acres for the phosphogypsum stack and return water ditches and approximately 60 acres for the surge pond located immediately south of the phosphogypsum stack.

17. The Dorr-Oliver cooling pond is located southwest of the Dorr-Oliver Gypstack. The perimeter dike has a dike crest elevation of 136 feet and is operated with a design freeboard of not less than 4 feet. Process water is pumped into the cooling pond and discharged through a weir board spillway installed in the easternmost of the two cofferdams.

18. The Dorr-Oliver surge pond is located on the south side of the Dorr-Oliver Gypstack and is the receiving body for water discharged from the phosphogypsum stack. In 1989, the perimeter dike of the surge pond was raised to a crest elevation of 145 feet and is currently operated with a design freeboard of 5 feet.

19. A spillway structure located near the northwest corner of the surge pond discharges process water into a perimeter return water ditch that parallels the west wall of the Dorr-Oliver Gypstack.

20. Two lime sludge dredge ponds are located on top of the hydraulically-placed tailings deposits used to reinforce the south wall dike of the Dorr Oliver surge pond. These elevated ponds were previously used to settle lime sludge sediments dredged from two below-grade lime treatment ponds located on the west side of the Dorr Oliver surge pond. The settling ponds are no longer active.

21. Information provided by the National Response Center (NRC) shows that on occasion between 1997 and 2007, acids produced at the Suwannee River Complex were accidentally released into the environment.

PCS Swift Creek Complex:

22. Respondent's Swift Creek Complex's operations include the production of sulfuric acid, phosphoric acid, and black liquid superphosphoric acid (SPA). Additional operations include a Phosphogypsum Stack System as defined in Rule 62-673.200(15), F.A.C., raw material storage and handling, and product handling and shipping facilities.
23. Sulfuric acid is produced by the same method employed at the Suwannee River Complex.
24. Phosphoric acid is produced using the hemi-hydrate process. The reaction yields phosphoric acid and calcium sulfate hemi-hydrate (gypsum).
25. Process wastewaters generated from the Swift Creek Complex's operations are ultimately discharged to earthen ditches that are components of the Swift Creek Complex's "cooling pond system" where the process wastewaters commingle with stormwater and decant water from the phosphogypsum stack system.
26. The Swift Creek phosphogypsum stack system occupies a total area of approximately 670 acres, and includes the phosphogypsum storage area, above-ground and below-ground level cooling ponds and a return water system.
27. The Swift Creek phosphogypsum stack is surrounded by a deep perimeter hydraulic ditch on the north, east, south and southwest sides that provides pressure relief and collection of process water seepage. Below-ground, primary and secondary water treatment or retention ponds, occupying a total area of about 75 acres, are located immediately north of the phosphogypsum stack and west of the above-ground cooling pond.
28. An above-ground cooling pond of about 120 acres lies northwest of the Swift Creek Complex's chemical plant and phosphogypsum storage area. Construction of the 120-acre above-ground cooling pond began in December 1978 and was completed in October 1979. The minimum crest elevation of the dikes comprising this pond is 158 feet and the maximum design fluid level is 153 feet.
29. The phosphogypsum stack was expanded to the west (Phase II) in 1988 and the cooling pond system was enlarged to include two new compartments. The new pond located on the north side of the phosphogypsum stack expansion is referred to as "A-Canal." The low-level below-ground pond, is referred to as "B-Canal."

Environmental Setting:

30. Depth to the surficial aquifer in the area ranges from approximately 13-38 feet. Unless specific exemptions are permitted pursuant to Chapter 62-520, F.A.C., groundwater in the State of Florida must meet drinking water standards. Pursuant to Rule 62-520.420, F.A.C., PCS has a groundwater monitoring system incorporated in wastewater/NPDES Permit Nos. FL 0000655 and FL 0036226. The referenced wastewater permits specify applicable "Minimum Criteria for

Ground Water” as set forth in Rule 62 520.400, F.A.C., as well as currently applicable groundwater monitoring requirements and the applicable Zone of Discharge (ZOD) for the Facilities, in accordance with the requirements of Chapter 62-520, F.A.C.

31. For purposes of this Consent Order as it relates to groundwater, current mining areas will not be included in the initial sampling/monitoring phase of the assessment.

32. Swift Creek, Camp Branch and Hunter Creek, are designated by the State of Florida for as Class III surface water bodies for Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife. Swift Creek, Camp Branch and Hunter Creek receive waters permitted for discharge by Respondent’s Facilities. The three water bodies flow beyond the ZOD and ultimately discharge into the Suwannee River.

33. The Suwannee River is also designated by the State of Florida as a Class III surface water body.

EPA Inspections:

34. On April 12, 2005 through April 14, 2005, EPA conducted a RCRA Compliance Evaluation Inspection of the Suwannee River Complex (the “Suwannee River Inspection”). EPA collected analytical samples as part of the Suwannee River Inspection.

35. According to EPA, analytical sample results from the Suwannee River Inspection indicated that certain materials handled by PCS at the Suwannee River Complex may exhibit the hazardous waste characteristics of corrosivity and that hazardous constituents were present in the environment.

36. According to EPA, certain materials handled by PCS at the Suwannee River Complex may be solid wastes and hazardous wastes pursuant to 40 C.F.R. § 261.2 and 261.3.

37. On April 13, 2005 and August 2, 2007 through August 3, 2007, EPA conducted RCRA Compliance Evaluation Inspections of the Swift Creek Complex (the “Swift Creek Inspections”). EPA collected analytical samples as part of the Swift Creek Inspections.

38. According to EPA, analytical sample results from the Swift Creek Inspections indicated that certain materials handled by PCS at the Swift Creek Complex may exhibit the hazardous waste characteristic of corrosivity and that hazardous constituents were present in the environment.

39. According to EPA, certain materials handled by PCS at the Swift Creek Complex may be solid wastes and hazardous wastes pursuant to 40 C.F.R. § 261.2 and 261.3.

V. DETERMINATIONS AND CONCLUSIONS OF LAW

40. The Suwannee River Complex and the Swift Creek Complex are each a “facility or site” within the meaning of Section 3013(a) of RCRA, 42 U.S.C. § 6934(a).

41. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
42. Respondent is an “owner” and “operator” of the Facilities within the meaning of Section 3013(a) of RCRA, 42 U.S.C. § 6934(a).
43. Section 1004(27) of RCRA, 42 U.S.C. § 6905(27) defines the term “solid waste” to mean “any garbage, refuse . . . and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations . . .”
44. Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), defines the term “hazardous waste” to mean:
- a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may-
 - (A) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or
 - (B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
45. Section 3001 of RCRA, 42 U.S.C. § 6921(b)(3)(A)(ii), the “Bevill Amendment,” excludes from the definition of hazardous waste, “solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock...” EPA regulations include within the Bevill Amendment “phosphogypsum from phosphoric acid production” and “process wastewater from phosphoric acid production.” 40 C.F.R. § 261.4(b)(7)(ii)(D) and (P).
46. Section 1004(3) of RCRA, 42 U.S.C. § 6903(3), defines the term “disposal” to mean “the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.”
47. The regulations at 40 C.F.R. Section 260.10 define the term “hazardous waste constituent” to mean a constituent that caused the Administrator to list the hazardous waste in Part 261, subpart D, or a constituent listed in Table 1 of Section 261.24
48. Based on the foregoing Findings of Fact, and pursuant to Section 3013(a) of RCRA, 42 U.S.C. § 6934(a), EPA has determined, and PCS disagrees, that the Swift Creek Complex and Suwannee River Complex, owned and operated by PCS, are facilities at which hazardous wastes are present and at which hazardous wastes have been generated, treated, stored and disposed.

49. Based on the foregoing Findings of Fact, and pursuant to Section 3013(a) of RCRA, 42 U.S.C. § 6934(a), EPA has hereby determined that there may be a substantial hazard to human health or the environment due to the presence of hazardous wastes and constituents and potential releases of hazardous wastes and constituents from the Facilities.

50. EPA has further determined that PCS, as owner or operator of the Facilities, is the party responsible for conducting the actions ordered herein, which are necessary to ascertain the nature and extent of the hazard to human health or the environment.

VI. ORDER

51. Pursuant to Section 3013(a) of RCRA, 42 U.S.C. § 6934(a), Respondent consents to and is hereby ordered to perform the following actions in the manner and by the dates specified herein:

52. The term “days” as set forth herein means calendar days unless otherwise specified.

53. All submissions required under this Consent Order will be combined submissions that encompass activities to be performed at both Facilities.

54. On September 10, 2007, PCS submitted to EPA a document titled “Groundwater Quality Review.” This document concluded, among other things, that “Sulfate, sodium and TDS values appear to be the best indicator parameters for identifying and mapping groundwater impacts from the stack system...” and “A sodium, sulfate and TDS plume has been identified within the surficial aquifer at both the Suwannee River and Swift Creek Facilities. The lateral extent of this plume has not been determined at either facility.”

55. For purposes of this Consent Order as it relates to groundwater, current mining areas will not be included in the initial sampling/monitoring phase of the assessment.

56. On March 7, 2008, PCS submitted to EPA, for approval, an Outline for a Sampling and Analysis Workplan (“Outline”) for carrying out the required monitoring, testing, analysis, and reporting.

57. On June 16, 2008, EPA conditionally approved the Outline.

58. Within sixty (60) days of the effective date of this Consent Order, Respondent will submit to EPA a Sampling and Analysis Workplan (“Workplan”).

59. The Workplan shall be designed to determine the presence, magnitude, extent, direction, and rate of movement of any hazardous waste, hazardous constituents, and/or COCs within and beyond the Facilities’ boundary. COCs shall be limited to those contaminants that are reasonably likely to be found at the Facilities. The Workplan shall document the procedures Respondent shall use to assess sampling and analysis data Respondent or EPA has previously generated that relate to the purposes of this Consent Order as well as the procedures Respondent shall use to conduct those activities necessary to: characterize the source(s) of contamination;

characterize the potential pathways of contaminant migration; define the degree and extent of contamination; and identify actual or potential human and/or ecological receptors. Respondent may implement the work contained in the Workplan in a multi-phased approach. A specific schedule for expeditious implementation of all activities shall be included in the Workplan. PCS's Workplan for assessment shall include the following:

- (A) Collection and analysis of sediment and/or soil samples from selected locations to determine the nature and extent of potential contamination, both vertically and horizontally. The Workplan shall define the number, location, and depth of the samples, and the parameters for analysis.
- (B) A surface water (including runoff) sampling and analysis section to determine the nature and extent of any contaminated surface water flowing from the phosphogypsum stack system and acid/fertilizer production portions of the Facilities. The Workplan shall define the number, location, and depth of samples, and the parameters for analysis.
- (C) A ground water sampling and analysis section to characterize the groundwater quality and the extent of any groundwater contamination, both vertically and horizontally on-site and/or may be migrating from the Facilities. The Workplan shall define the number, location, and depth of ground water samples (either from existing wells included in the current ground water monitoring program, temporary wells, or direct-push technology), and the parameters for analysis.
- (D) Upon confirmation of the existence of hazardous constituents, if any, emanating from the Facilities beyond the ZOD or properties not owned by the Respondent, a section addressing a potable well survey within a ½ mile radius of the Facilities including a schedule for sampling of each well, and the parameters for analysis. Upon confirmation of an exceedance of Florida groundwater standards in any of the potable wells, PCS will notify EPA within seven (7) days and will extend the well survey by ½ mile radial increments in the appropriate direction depending on the results of the initial well survey.
- (E) A survey that identifies any wetlands, creeks, or lakes within a one (1) mile radius down gradient and beyond the Facilities (not including public roadside ditches). This survey should also identify any such bodies of water, whether existing or incorporated in mine reclamation plans, which are used for public recreational purposes or may contain endangered species.
- (F) A Project Management Plan.
- (G) A Data Collection Quality Assurance Project Plan using FDEP's Quality Assurance Chapter 62-160, F.A.C. for new sampling and analysis required by this Consent Order.
- (H) A Data Management Plan incorporating FDEP's Quality Assurance Chapter 62-160, F.A.C. for new sampling and analysis required by this Consent Order.
- (I) A timeline for work detailed above and a schedule for the submission of progress reports, including a draft Sampling and Analysis Report, and a final Sampling and Analysis Report.

60. Concurrent with the submission of the Sampling and Analysis Workplan, Respondent shall submit a Health and Safety Plan (HASP) with respect to the work to be performed under this Consent Order.

61. Upon receipt of EPA approval of the Workplan, Respondent shall implement the EPA-approved Workplan in accordance with the terms and schedules contained therein. Upon completion of implementation of the Workplan, Respondent shall submit to EPA for approval a draft Sampling and Analysis Report, in accordance with the requirements and schedule contained in the EPA-approved Sampling and Analysis Workplan. Upon approval of the draft Sampling and Analysis Report by EPA, Respondent shall submit a final Sampling and Analysis Report.

62. EPA acknowledges that Respondent has completed some of the tasks required by this Consent Order and/or that Respondent has available some of the information and data required by this Consent Order. This previous work may be used to meet some of the requirements of this Order, upon submission to and formal approval by EPA.

VII. ADDITIONAL WORK

63. Based on work performed under the Workplan described above, EPA may determine that additional monitoring, testing, analysis, and/or reporting is necessary to ascertain the nature and extent of any hazard to human health and the environment which may be presented by the presence or release of hazardous wastes and/or hazardous constituents at or from the Facilities. If EPA determines that such additional work is necessary, EPA will notify Respondent in writing and specify the basis for its determination that additional work is necessary. Within fifteen (15) days after the receipt of such determination, Respondent shall have the opportunity to meet or confer with EPA to discuss the additional work. If required by EPA, Respondent shall submit for EPA approval a workplan for the additional work ("Supplemental Workplan"). EPA will specify the contents of such Supplemental Workplan. Such Supplemental Workplan shall be submitted by Respondent within thirty (30) days of receipt of EPA's determination that additional work is necessary, or according to an alternative schedule established by EPA.

VIII. MINIMUM QUALIFICATIONS FOR PERSONNEL

64. All work performed by the Respondent pursuant to this Consent Order shall be under the direction and supervision of an individual who has demonstrated expertise in hazardous waste site investigation. Before any work is performed, Respondent shall submit to EPA, in writing, the name, title, and qualifications of the supervisory personnel and of any contractors or subcontractors to be used in carrying out the terms of this Consent Order. Additionally, the Respondent shall ensure that when a license is required, only licensed individuals shall be used to perform any work required by this Consent Order.

IX. SUBMISSIONS/EPA REVIEW

65. EPA will review Respondent's Workplans, Supplemental Workplans, draft and final reports, and any other documents submitted pursuant to this Consent Order ("submissions"), with the exception of progress reports, and will notify Respondent in writing of EPA's approval or disapproval of each such submission. In the event of EPA's disapproval, EPA shall specify in writing any deficiencies in the submission. Such disapproval shall not be subject to the dispute resolution procedures of Section XVII., below.

66. Within thirty (30) calendar days of receipt of EPA's comments on the submission, Respondent shall submit to EPA for approval a revised submission which responds to any comments received and/or corrects any deficiencies identified by EPA. Respondent may request additional time within which to submit a revised submission. In the event that EPA disapproves the revised submission, Respondent may invoke the dispute resolution procedures of Section XVII., below. Otherwise, EPA reserves the right to revise such submission and seek to recover from Respondent the costs thereof, in accordance with any rights that it may have under RCRA, the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") and any other applicable law. Any submission approved or revised by EPA or upheld through dispute resolution under this Consent Order shall be deemed incorporated into and made an enforceable part of this Consent Order.

67. Upon disapproval by EPA of a revised submission, and in the event Respondent does not invoke the dispute resolution procedures of Section XVII., below, Respondent may submit to EPA for approval a subsequent revised submission which responds to any comments received and/or corrects any deficiencies identified by EPA. Respondent may request additional time within which to submit a subsequent revised submission.

68. In the event EPA and Respondent cannot resolve issues relating to EPA's comments and EPA disapproves of any subsequent revised submission, Respondent may invoke the dispute resolution procedures of Section XVII., below. Otherwise, EPA reserves the right to revise such submission and to seek to recover from Respondent the costs of revising the subsequent submission in accordance with RCRA, CERCLA and any other applicable law. Any submission approved or revised by EPA or upheld through dispute resolution under this Consent Order shall be deemed incorporated into and made an enforceable part of this Consent Order.

69. The Respondent shall provide EPA with quarterly progress reports demonstrating that the activities associated with this Order are being carried out. The first report shall be submitted within three months after the effective date of this Consent Order. These progress reports will summarize all activities to date. This requirement shall continue throughout the period this Consent Order is effective. These quarterly progress reports shall be due on the fifteenth day of the month following the end of the quarter.

70. EPA shall endeavor to timely approve or disapprove any deliverable submitted by Respondent for approval pursuant to this Consent Order. Nothing in this paragraph shall be

construed to confer any enforceable rights upon Respondent, nor shall any failure to comply with the provisions of this paragraph be subject to the dispute resolution provisions set forth in Section XVII., below.

71. Unless otherwise specified, reports, correspondence, approvals, disapprovals, notices, or other submissions relating to or required under this Consent Order shall be in writing and shall be sent as follows:

- a. Two (2) copies of all documents to be submitted to EPA shall be sent to:

Bethany Russell, Environmental Scientist
U.S. Environmental Protection Agency
Region 4
RCRA and OPA Enforcement and Compliance Branch
61 Forsyth Street, SW
Atlanta, GA 30303
(404) 562-8542
russell.bethany@epa.gov

One (1) copy of all documents submitted to EPA shall also be sent to:

Tim Bahr, Administrator
Hazardous Waste Regulation
Department of Environmental Protection
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399 2400

One (1) copy of all documents submitted to EPA shall also be sent to:

John A. Coates, P.E., Chief
Bureau of Mining and Minerals Regulation
Department of Environmental Protection
2051 East Paul Dirac Drive
Tallahassee, FL 32310

One (1) copy of all documents submitted to EPA shall also be sent to

Melissa Long
FDEP Northeast District
7825 Baymeadows Way
Suite B-200
Jacksonville, FL 32256-7590

- b. Documents to be submitted to Respondent shall be sent to:

Michael Brom
PCS Administration (USA), Inc.
Director Environment
Suite 400
1101 Skokie Boulevard
Northbrook, IL 60062
Phone: (847) 849-4279
Fax: (847) 849-4694
Email: michael.brom@potashcorp.com

72. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Consent Order which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this Consent Order shall be certified by a duly authorized representative of Respondent. A person is a "duly authorized representative" only if: (a) the authorization is made in writing; (b) the authorization specifies either an individual or position having responsibility for overall operation of the regulated facility or activity (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and (c) the written authorization is submitted to the Project Coordinator designated by EPA pursuant to Section XI., Project Coordinator, of this Consent Order.

73. The certification required by paragraph 72 above, shall be in the following form:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to be the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Signature : _____

Name: _____

Title: _____

X. QUALITY ASSURANCE/QUALITY CONTROL

74. Respondent shall follow EPA guidance for sampling and analysis. Respondent shall develop a Quality Assurance Project Plan (QAPP) for all sampling and analysis conducted under

this Consent Order. Workplans shall contain quality assurance/quality control (QA/QC) and chain of custody procedures for all sampling, monitoring, and analytical activities. Any deviations from the QA/QC and chain of custody procedures in approved workplans must be approved by EPA prior to implementation; must be documented, including reasons for the deviations; and must be reported in the applicable report.

75. The contact person(s), name(s), addresses, and telephone numbers of the analytical laboratories Respondent proposes to use must be specified in the applicable workplan(s).

76. All workplans required under this Consent Order shall include data quality objectives for each data collection activity to ensure that data of known and appropriate quality are obtained and that data are sufficient to support their intended use(s).

77. Respondent shall monitor to ensure that high quality data is obtained by its consultant or contract laboratories. Respondent shall ensure that laboratories used by Respondent for analysis perform such analysis according to the latest approved edition of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846 Third Edition as amended by Update One, July 1992), or other methods deemed satisfactory to EPA. If methods other than EPA methods are to be used, Respondent shall specify and submit all such protocols for EPA approval in the work plan. EPA may reject any data that does not meet the requirements of the approved work plan or EPA analytical methods and may require resampling and additional analysis.

78. Respondent shall ensure that laboratories it uses for analyses participate in a QA/QC program equivalent to that which is followed by EPA. EPA may conduct a performance and QA/QC audit of the laboratories chosen by Respondent before, during, or after sample analyses. Upon request by EPA, Respondent shall have its laboratory perform analyses of samples provided by EPA to demonstrate laboratory performance. If the audit reveals deficiencies in a laboratory's performance or QA/QC, resampling and additional analysis may be required.

XI. PROJECT COORDINATOR

79. EPA hereby designates as its Project Coordinator:

Bethany Russell, Environmental Scientist
U.S. Environmental Protection Agency
Region 4
RCRA and OPA Enforcement and Compliance Branch
61 Forsyth Street, SW
Atlanta, GA 30303
(404) 562-8542
Fax: (404) 562-8566
russell.bethany@epa.gov

80. Respondent hereby designates as its Project Coordinator:

Michael Brom
PCS Administration (USA), Inc.
Director Environment|
Suite 400
1101 Skokie Boulevard
Northbrook, IL 60062
(847) 849-4279
Fax: (847) 849-4694
michael.brom@potashcorp.com

81. Each Project Coordinator shall, on behalf of the party that designated the Project Coordinator, oversee the implementation of this Consent Order and function as the principal project contact.

82. All communication between Respondent and EPA, and all documents, reports, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Order shall be directed through the Project Coordinator.

83. Respondent shall provide EPA and EPA shall provide Respondent with a written notice of any change in its Project Coordinator. To the extent possible, such notice shall be provided at least ten (10) calendar days prior to the change in Project Coordinator.

84. The absence of the PCS or EPA Project Coordinator shall not be cause for the stoppage or delay of work.

XII. SAMPLING AND DATA/DOCUMENT AVAILABILITY

85. Respondent shall submit to EPA the results of all sampling and/or tests or other data generated by, or on behalf of, Respondent pursuant to the requirements of this Consent Order.

86. Respondent shall notify EPA and the Florida Department of Environmental Protection, in writing and by electronic mail, at least thirty (30) days in advance of engaging in any field activities at the Facilities conducted pursuant to this Consent Order.

87. At the request of EPA, Respondent shall provide or allow EPA or its authorized representatives to take split and/or duplicate samples of all samples collected by Respondent pursuant to this Consent Order. Similarly, at the request of Respondent, EPA will allow Respondent or its authorized representatives to take split and/or duplicate samples of any samples collected by EPA under this Consent Order, provided that such sampling shall not delay EPA's proposed sampling activities.

88. Nothing in this Consent Order shall limit or otherwise affect EPA's authority to collect samples pursuant to any applicable law, including, but not limited to, RCRA and/or CERCLA.

89. EPA will make available to the Respondent the results of sampling and/or tests or other data from the Facilities generated by, or on behalf of, EPA.

XIII. ON-SITE AND OFF-SITE ACCESS

90. Respondent shall provide access at all reasonable times to the Facilities and to all records and documentation relating to conditions at the Facilities and the activities conducted pursuant to this Consent Order to EPA and its employees, contractors, agents, consultants, and representatives. These individuals shall be permitted to move freely at the Facilities, following site specific health and safety rules, including rules that visitors be accompanied by an employee of Respondent, in order to conduct activities which EPA determines to be necessary.

91. To the extent that activities required by this Consent Order, or by any approved workplans prepared pursuant hereto, must be done on property not owned or controlled by Respondent, Respondent will use its best efforts to obtain site access agreements in a timely manner from the present owners of such property. Best efforts, as used in this paragraph, shall include the payment of reasonable compensation in consideration of granting access. Respondent shall ensure that EPA's Project Coordinator has a copy of any access agreements.

92. Nothing in this Consent Order limits or otherwise affects EPA's right of access and entry pursuant to applicable law, including RCRA and CERCLA.

XIV. RECORD PRESERVATION

93. Respondent shall retain, during the pendency of this Consent Order and for a minimum of five (5) years after its termination, a copy of all data, records, and documents now in its possession or control, or in the possession or control of its contractors, subcontractors, representatives, or which come into the possession or control of the Respondent, its contractors, subcontractors, or representatives, which relate in any way to this Consent Order. Respondent shall notify EPA, in writing, at least ninety (90) days in advance of the destruction of any such records, and shall provide EPA with the opportunity to take possession of any such records. Such written notification shall reference the caption, docket number and date of issuance of this Consent Order and shall be addressed to:

Frank Ney, Acting Section Chief
South Enforcement and Compliance Section
RCRA/OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Additionally, Respondent shall provide data, records and documents retained under this Section at any time before the expiration of the five (5) year period at the written request of EPA.

XV. INFORMATION SUBMITTED TO EPA

94. Respondent may assert a business confidentiality claim in the manner described in 40 CFR § 2.203(b) covering all or part of any information submitted to EPA pursuant to this Consent Order. In accordance with 40 CFR § 2.204(e)(4), any assertion of confidentiality shall be adequately substantiated by Respondent when the assertion is made. Information submitted for which Respondent has asserted a claim of confidentiality as specified above shall be disclosed by EPA only to the extent and manner permitted by 40 CFR Part 2, Subpart B. If no such confidentiality claim accompanies the information when it is submitted to EPA, the information may be made available to the public by EPA without further notice to the Respondent. Respondent agrees not to assert any confidentiality claim with respect to any physical, sampling, monitoring, or analytical data.

95. In the event that Respondent wishes to assert a privilege with regard to any document which EPA seeks to inspect or copy pursuant to this Consent Order, Respondent shall identify the document, the privilege claimed and the basis thereof in writing. For the purposes of this Consent Order, privileged documents are those documents exempt from discovery from the United States in litigation under the Federal Rules of Civil Procedure and/or any applicable statute or case law. EPA may dispute any such claim of privilege pursuant to the dispute resolution provisions set forth in Section XVII, below.

XVI. DELAY IN PERFORMANCE/STIPULATED PENALTIES

96. Unless there has been a written modification of a compliance date by EPA, or excusable delay as defined below in Section XVIII, Force Majeure, in the event that Respondent fails to comply with any requirement set forth in this Consent Order, Respondent shall pay stipulated penalties, as set forth below, upon receipt of a written demand by EPA. The stipulated penalties that follow apply to all requirements of this Consent Order.

Period of Failure to Comply	Penalty Per Violation Per Day
1st day through 15th day	\$500
15th day through 30th	\$1000
30th day and beyond	\$1500

97. Compliance by Respondent shall include commencement or completion, as deemed appropriate by EPA, of any activity, plan, study or report required by this Consent Order, and in the manner required by this Consent Order and within the specified time schedules in and approved under this Consent Order.

98. All stipulated penalties shall begin to accrue on the date that complete performance is due or a violation occurs, and shall continue to accrue through the final day of or correction of the violation. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this Consent Order.

99. All stipulated penalties owed to EPA under this section shall be due within thirty (30) calendar days of receipt of a demand for payment, unless Respondent invokes the dispute

resolution procedures under Section XVII, below. Such demand for payment shall describe the noncompliance and shall indicate the amount of stipulated penalties due.

100. All stipulated penalty payments shall be made by certified or cashier's check payable to the Treasurer of the United States of America and shall be remitted to:

United States Environmental Protection Agency
Cincinnati Accounting Operations
Mellon Lockbox 371099M
Pittsburgh, PA 15251-7099

All payments shall reference the Respondent's name and address, and the EPA Docket Number of this Consent Order. Copies of the transmittal of payment shall be sent simultaneously to the EPA Project Coordinator at the address in paragraph 79.

101. Respondent may dispute EPA's demand for payment of stipulated penalties for any alleged violation of this Consent Order by invoking the dispute resolution procedures below under Section XVII., Dispute Resolution. Stipulated penalties shall continue to accrue, but are not required to be paid, for any alleged noncompliance which is the subject of dispute resolution during the period of such dispute resolution. To the extent that Respondent does not prevail upon resolution of the dispute, Respondent shall remit to EPA within twenty-one (21) calendar days of receipt of EPA's written decision as to said dispute, any outstanding penalty payment in the manner described above in Paragraphs 99 and 100 of this Section.

102. Neither the filing of a petition to resolve a dispute nor the payment of stipulated penalties shall alter in any way Respondent's obligation to comply with the requirements of this Consent Order.

103. The assessment of stipulated penalties set forth in this section shall not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this Consent Order.

104. EPA in its sole discretion may reduce or waive stipulated penalties.

XVII. DISPUTE RESOLUTION

105. If a dispute arises under this Consent Order, the procedures of this section shall apply. The Parties shall make reasonable efforts to informally resolve disputes at the Project Coordinator or immediate supervisor level.

106. If Respondent disagrees, in whole or in part, with any EPA disapproval, modification or other decision or directive made by EPA pursuant to this Consent Order, Respondent shall notify EPA in writing of its objections, and the basis therefore, within fourteen (14) calendar days of receipt of EPA's disapproval, decision or directive. Such notice shall set forth the specific points of the dispute, the position which Respondent asserts should be adopted as consistent with the requirements of this Consent Order, the basis for Respondent's position, and any matters which it

considers necessary for EPA's determination. EPA and Respondent shall have an additional fourteen (14) calendar days from the receipt by EPA of the notification of objection, during which time representatives of EPA and Respondent may confer in person or by telephone to resolve any disagreement. If an agreement is reached, the resolution shall be written and signed by an authorized representative of each party. In the event that resolution is not reached within this fourteen (14) calendar day period, EPA will furnish to Respondent, in writing, its decision on the pending dispute. Said written decision shall state the basis and rationale for the decision.

107. Except as provided in Paragraph 106 above, the existence of a dispute, as defined in this section, and EPA's consideration of matters placed into dispute, shall not excuse, toll or suspend any other compliance obligation or deadline required pursuant to this Consent Order during the pendency of the dispute resolution process.

108. Notwithstanding any other provisions of this Consent Order, no action or decision by EPA pursuant to this Consent Order, shall constitute final agency action giving rise to any right to judicial review.

XVIII. FORCE MAJEURE

109. Respondent shall perform the requirements of this Consent Order in the manner and within the time limits set forth herein, unless the performance is prevented or delayed by events which constitute a *force majeure*. Respondent shall have the burden of proving such a *force majeure*. A *force majeure* is defined as any event arising from causes not reasonably foreseeable and beyond the control of Respondent, which cannot be overcome by due diligence and which delays or prevents performance in the manner or by a date required by this Consent Order. Such events do not include: increased costs of performance; changed economic circumstances; failure to obtain federal, State or local permit if, and only if, the Respondent has not timely applied for said permit(s); reasonably foreseeable weather conditions; or weather conditions which could have been overcome by due diligence.

110. Respondent shall notify EPA, in writing, within ten (10) calendar days after it becomes or should have become aware of any event which Respondent claims constitutes a *force majeure*. Such notice shall estimate the anticipated length of delay, including necessary demobilization and remobilization, its cause, measures taken or to be taken to prevent or minimize the delay, and an estimated time table for implementation of these measures. Failure to comply with the notice provision of this paragraph shall constitute a waiver of Respondent's right to assert a *force majeure* claim with respect to such event. If, in EPA's sole and unreviewable discretion, EPA determines that the failure to give notice was not prejudicial to EPA, Respondent's failure to give notice shall not constitute a waiver. In addition to the above notification requirements, Respondent shall undertake all reasonable actions to prevent or to minimize any delay in achieving compliance with any requirement of this Consent Order after it becomes or should have become aware of any event which may delay such compliance.

111. If EPA determines that the failure to comply or delay has been or will be caused by a *force majeure*, the time for performance of that requirement of this Consent Order may be extended, upon EPA approval, for a period equal to the delay resulting from such *force majeure*.

This shall be accomplished through an amendment to this Consent Order pursuant to Section XXII., Subsequent Modification of Order. Such an extension shall not alter the schedule for performance or completion of any other tasks required by this Consent Order, unless these tasks are unavoidably affected by the delay. In the event that EPA and Respondent cannot agree that any delay or failure has been or will be caused by a *force majeure*, or if there is no agreement on the length of the extension, Respondent may invoke the dispute resolution procedures set forth in Section XVII., Dispute Resolution.

XIX. RESERVATION OF RIGHTS

112. EPA expressly reserves all rights and defenses that it may have, including the right both to disapprove of work performed by Respondent pursuant to this Consent Order, to require that Respondent correct and/or re-perform any work disapproved by EPA, and to request that Respondent perform tasks in addition to those stated in the Scope(s) of Work, workplans, or in this Consent Order, consistent with the objectives of this Consent Order.

113. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including any which may pertain to Respondent's failure to comply with any of the requirements of this Consent Order. This Consent Order shall not be construed as a covenant not to sue, or as a release, waiver or limitation of any rights, remedies, defenses, powers and/or authorities, civil or criminal, which EPA has under RCRA, CERCLA, the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), the Clean Air Act (CAA), or any other statutory, regulatory, or common law enforcement authority of the United States.

114. EPA reserves the right to perform any portion of the work required herein or any additional monitoring, sampling, analysis, or reporting it deems necessary to protect public health or welfare or the environment. EPA reserves the right to seek reimbursement from Respondent for costs incurred by the EPA in connection with any such actions, pursuant to any right it may have under applicable law.

115. EPA reserves whatever rights it may have under any environmental law or authority, or in equity, to seek to recover from Respondent any costs incurred by EPA in overseeing the implementation of this Consent Order.

XX. OTHER APPLICABLE LAWS

116. All actions required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable federal, state, and local laws, regulations, permits, and ordinances.

117. Compliance by Respondent with the terms of this Consent Order shall not relieve Respondent of its obligations to comply with RCRA, or any other applicable federal, state, or local laws, regulations, permits, and ordinances.

118. This Consent Order is not and shall not be interpreted to be a permit, or as a ruling or a determination of any issue related to a permit under federal, state or local law. This Consent

Order shall not in any way affect Respondent's obligation, if any, to secure such a permit, nor shall this Consent Order be interpreted in any way to affect or waive any of the conditions or requirements that may be imposed by such permit, nor of Respondent's right to appeal any conditions of such permit. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations. The time for Respondent's performance under this Consent Order may be extended upon written approval by EPA while Respondent uses its best efforts to obtain state and local permits required for any activities required by the Workplan.

XXI. OTHER CLAIMS

119. Nothing in this Consent Order shall constitute or be construed as a release from any claim, cause of action, demand, or defense in law or equity, against any person, firm, partnership, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous wastes, hazardous constituents, hazardous substances, pollutants, or contaminants found at, taken to, or migrating from the Facilities.

120. Neither the United States nor EPA shall be deemed a party to any contract involving Respondent and relating to activities at the Facilities and shall not be liable for any claim or cause of action arising from or on account of any act, or the omission of Respondent, its officers, employees, contractors, receivers, trustees, agents or assigns, in carrying out the activities required by this Consent Order.

XXII. SUBSEQUENT MODIFICATION OF ORDER

121. Except as provided in paragraph 123 of this section, the provisions of this Consent Order may be amended only by mutual agreement of EPA and Respondent. Any such amendment shall be in writing, shall be signed by an authorized representative of each party, shall have as its effective date the date on which it is signed by EPA, and shall be incorporated into this Consent Order. Any oral agreement between EPA and Respondent, the purpose of which is to modify this Consent Order to address exigent circumstances, and which is subsequently ratified in writing by EPA and Respondent, shall have as its effective date the date of such oral agreement.

122. Any reports, plans, specifications, schedules, other submissions and attachments required by this Consent Order are, upon written approval by EPA, incorporated into this Consent Order. Any noncompliance with such EPA-approved reports, plans, specifications, schedules, other submissions, and attachments shall be considered a violation of this Consent Order and shall subject Respondent to the stipulated penalty provisions included in Section XVI., Delay in Performance/Stipulated Penalties.

123. Minor modifications in the studies, techniques, procedures, designs or schedules utilized in carrying out this Consent Order and necessary for the completion of the project may be made by written agreement of the Project Coordinators. Such modifications shall have as an effective date the date on which the agreement is signed by the EPA Project Coordinator.

124. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent shall be construed as relieving Respondent of its obligation to obtain written approval, if and when required by this Consent Order.

XXIII. SEVERABILITY

125. If any provision or authority of this Consent Order, or the application of this Consent Order to any party or circumstances, is held by any judicial or administrative authority to be invalid, the application of such provisions to other Parties or circumstances and the remainder of the Consent Order shall not be affected thereby and shall remain in full force.

XXIV. TERMINATION AND SATISFACTION

126. The provisions of this Consent Order shall be deemed satisfied upon Respondent's receipt of written notice from EPA that Respondent has demonstrated to the satisfaction of EPA that the terms of the Consent Order, including any additional tasks determined by EPA to be required pursuant to this Consent Order, have been satisfactorily completed. Such notice shall not be unreasonably withheld. This notice shall not, however, terminate Respondent's obligations to comply with any continuing obligations hereunder, including, but not limited to, Section XIV., Record Preservation; Section XIX, Reservation of Rights; Section XX., Other Applicable Laws; and Section XXI., Other Claims.

XXV. SURVIVABILITY/PERMIT INTEGRATION

127. If, subsequent to the issuance of this Consent Order, a permit or order is issued to the Facilities, the requirements of this Consent Order may be incorporated by reference into that order or permit.

128. Any requirements of this Consent Order shall not terminate upon the issuance of a permit or order unless all relevant Consent Order requirements are expressly replaced by the requirements in the permit or all provisions of this Consent Order have been fully complied with to EPA's satisfaction in accordance with Section XIX, Reservation of Rights, of this Consent Order.

XXVI. ATTORNEYS' FEES AND COSTS

129. Except as otherwise provided herein, Respondent shall bear its own costs and attorneys' fees.

XXVII. EFFECTIVE DATE

130. The effective date of this Consent Order shall be the date on which Respondent receives a true and correct copy of the fully executed Consent Order.

IT IS SO AGREED AND ORDERED:

DATE: 9/9/08

BY: 

G. Alan Farmer
Director, RCRA Division
United States Environmental Protection Agency
Region 4

FOR COMPLAINANT

DATE: 9-2-08

BY: 

Thomas J. Regan, Jr.
President
White Springs Agricultural Chemicals, Inc.
d/b/a PCS Phosphate – White Springs

FOR RESPONDENT

IN THE MATTER OF: White Springs Agricultural Chemicals, Inc.
d/b/a PCS Phosphate – White Springs

DOCKET NO: RCRA-04-2008-4014

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing RCRA 3013 Order, DOCKET NO: RCRA-04-2008-4014, to be served upon the person designated below on the date below, by causing said copy to be deposited in the U.S. Mail, First Class (Certified Mail, Return Receipt Requested, postage prepaid), at Atlanta, Georgia, in an envelope addressed to:

Mary Beth Deemer
Jones Day
500 Grant Street
Suite 3100
Pittsburgh, PA 15219-2502

I have further caused the original and one copy of the RCRA 3013 and the Certificate of Service to be filed with Bethany Russell of the United States Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia, 30303, on the date specified below.

Dated this 10th day of Sept., 2008.

Vicki A. Haley

Office Automation Assistant
RCRA and OPA Enforcement and Compliance Branch
RCRA Division